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December 7, 2005

Attention: Honorable Cheryl Pollak
U.S. Magistrate Judge

United States District Court
Eastern District of New York
225 Cadman Plaza East, Rm. 538
Brooklyn, New York 11201

Re: Davinder Singh v. Maresco and Burtnick
Index No.: CV-04-1439 [39]
Our File #: 3.1061
D/Accident: 9/20/02

Honorable Judge Pollak:

We are the attorneys of record for the defendants, Ralph C. Maresco and Beau Burtnick, in the above action.

This matter was the subject of conferences before Your Honor on May 11, 2004, July 22, 2004, October 19, 2004, December 8, 2004, March 14, 2005, May 23, 2005 and September 13, 2005.

On December 8, 2004, the court ordered plaintiff to exchange his expert reports and submit to a medical examination. The plaintiff did not meet this deadline.

On September 13, 2005, Your Honor directed plaintiff to provide any and all expert reports by October 14, 2005.

To date, we have not received said report(s) or any request for extension for same. Nor have we received any expert disclosure pursuant to Rule 26.

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As we previously advised, since plaintiff's medical claims are highly technical in nature (left knee internal derangement, disc bulge of the back and aggravation of a fracture and prior surgery of the leg), defendant cannot proceed with a physical exam without plaintiff's medical expert report.

Defendants have been prejudiced by the several defaults and passage of time to conduct a physical examination to defend the medical claims herein.

Accordingly, defendant respectfully requests that the claims for knee, back and leg injuries be stricken and dismissed herein.

Very truly yours,

DOWNING & PECK, P.C.

By: JOHN M. DOWNING, JR.

JMR/ms

cc: Barry Siskin, Esq.

*Plaintiff is Ordered to
Show Cause why his
claims for knee, back
and leg injuries
should not be dismissed
for failure to comply
with This Court's Order.
Any submission is due
12/22/05. So Ordered*

s/Cheryl Pollak

USMS

12/13/05